IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)

PRESENT

THE HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO

WRIT PETITION No.24980 of 1996

Dated: 30-11-2006

Between:

G.Ravinder Reddy.

..... PETITIONER

AND

1.The Mandal Revenue Officer,
Bonakal Mandal,
Khammam District and 2 others.

.....RESPONDENTS

The Hon'ble Sri Justice Nooty Ramamohana Rao

Writ Petition No.24980 of 1996

Order:

This Writ Petition has been instituted for declaring the proceedings RC.No.A3/4176/96, dated 29th October, 1996, passed by the second respondent-Revenue Divisional Officer, Khammam, as illegal.

On 29th October, 1996, the Revenue Divisional Officer, Khammam, has passed the impugned order in terms of Section 2(e) read with Section 4 of the A.P.Irrigation (Construction and Maintenance of Water Courses) Act, 1965, permitting the first respondent-Mandal Revenue Officer, Bonakal Mandal, to dig a field channel to enable the flow of water into the vagu for the purpose of safeguarding the lands in the upper reaches from getting submerged. The background, in which this order came to be passed, was that certain ryots, whose lands are situated in Survey Nos.67/26, 25, 26 and 27, Brahmanapalli Village, had submitted a representation to the respondents pointing out that the ryots, whose lands are situated in Survey Nos.29 and 30, were not allowing the rain water to flow through their fields, as a result of which, their lands in Survey Nos.67/26, 25, 26 and 27, Brahmanapalli Village, were getting submerged by the stagnant waters. Therefore, to avoid this problem faced by the upper reach landholders, the first respondent-Mandal Revenue Officer, had inspected the lands on 11th September, 1996, and submitted his report. Thereafter, the second respondent-Revenue Divisional Officer had passed an order to permit the stagnant waters to flow down into the vagu through the fields in Survey Nos.29 and 30 by digging a field channel therein. In fact, the Revenue Divisional Officer, Khammam, also inspected the lands on 15th October, 1996, and after being satisfied that it is necessary to provide such a field channel to enable the entire stagnant rain water to pass through the fields in

Survey Nos.29 and 30 to join the Vagu, the order dated 29th October, 1996 has been passed.

The Andhra Pradesh Irrigation (Construction and Maintenance of Water Courses) Act, 1965 (for short 'the Act'), has been brought forth making provision for construction and maintenance of watercourses in the unit of irrigation works and to deal with all connected matters therewith. The expression 'Irrigation Work' has been defined in Section 2(f) of the said Act in the following terms:

> '(f) "*Irrigation work*" includes—
>
> (i) all rivers and natural streams or parts thereof;
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> (ii) all lakes and other natural collections of water or parts thereof;
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> (iii) all tanks, wells, tube wells, reservoirs, ponds, kuntas, streams, madugus used for the supply or storage of water for purpose of irrigation;
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> (iv) all canals, channels, anicuts, dams, embankments, weirs, sluices, groins, kuntas, and other works other than escape channels connected with, or auxiliary to irrigation works referred to in sub-clauses (i) to (iii).
>
> (v) all drainage channels, the water of which is utilized for the purpose of irrigation;
>
> (vi) all lands used for the purpose of irrigation works referred to in sub-clauses (i) to (v) : and
>
> (vii) all buildings, machinery, fences, gates, roads and other erections occupied by, or belonging to, the Government and connected with an irrigation work;
>
> which are owned maintained, constructed or controlled by the Government."

The expression 'Irrigation Officer' has been defined under Section 2(e) of the Act in the following manner:

> ' "Irrigation Officer" means any officer of the Revenue Department or the Public Works Department not below the rank of a Revenue Divisional officer or an Executive Engineer, empowered or authorized by the Government to exercise all or any of the functions of an Irrigation Officer under this Act;'

Section 4 of the Act conferred certain powers on the Irrigation Officer to construct watercourse either *suo moto* or on an application. The Irrigation Officer has, thus, been vested with the power to ascertain, upon enquiry, the most suitable alignment for the said watercourse and cause the land, which in his opinion is necessary for the construction thereof, to be marked out on the ground. Thus, powers have been vested on the second respondent-Revenue Divisional Officer to mark the land necessary for construction of a watercourse either *suo moto* or on an application. Under Section 11 of the Act, certain obligations have been cast upon the landowners, who receive or discharge water through the watercourses, to maintain them in a fit state of repair and also maintain all works necessary for according the necessary passage. Thus, this Act has been brought into force for securing construction of certain watercourses to ensure that the irrigation works and all matters connected therewith are achieved to secure optimum utilization by all concerned of the natural resources that are available for carrying out the agricultural operations.

For carrying on agricultural operations, every field is required to have an inlet and an outlet to enable the excessive water to flow out through the fields situated in the lower reaches. Normally, when irrigation facilities are provided by the State, the draining out facilities are also simultaneously provided, but, in the instant case, the lands are dry lands and have no fixed irrigation facilities. Hence, the necessity to provide for such a field channel had cropped up now. It will be in the interests of all concerned, including the writ petitioner, to allow and permit such a field channel to be put in place, for, it does not occupy much of the land and will be beneficial and useful for the writ petitioner also to drain out the excess water including the waste water generated during the agricultural operations.

I, therefore, do not find any illegality in the orders passed by the second respondent-Revenue Divisional Officer.

Hence, the Writ Petition is dismissed, but, however, without costs.

(Nooty Ramamohana Rao, J)

30th November, 2006
LUR